

# CONFIDENTIAL

## WEEKLY HOT ISSUES REPORT FOR RA/DRA

### WEEK ENDING AUGUST 29, 2014

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#### OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

##### *This Week –*

**CLIMAX MINE (FREMONT PASS, COLORADO) JURISDICTIONAL DETERMINATIONS OF MINING SITE WATERS:** Climax is an open-pit molybdenum mining operation which reestablished commercial operations in May 2012. The mine requested a jurisdictional determination from the Corps of waters in McNulty Gulch, a tributary of Ten Mile Creek, where it wishes to place additional fill. EPA OW and Region 8 have been working with the Corps of Engineers to determine the jurisdictional status of these waters which is complicated by the complex alpine hydrology and an existing waste water treatment system that includes of various ditches that divert water to or around the treatment system. Waters in waste treatment systems are excluded from protection under the Clean Water Act. The Corps has submitted an initial draft positive jurisdictional determination to Region 8 for review and concurrence which is due Friday August 29, 2014. The determination of waters found to be non-jurisdictional will be sent at a later time. The Corps expects an appeal of their determination by the mine. It is the opinion of the Regional CWA 404 program that the Corps has made valid determinations of jurisdiction based on the 2007/2008 guidance documents, and we plan to concur on the draft determinations submitted to Region 8 by the Sacramento District, Grand Junction Office.

Climax has sent an email to the Corps asking for an EPA contact to discuss the mine's position regarding the extent of the waste treatment system exemption as applied to the McNulty Gulch drainage area at the Climax Mine. They believe the exclusion "turns on language from the original NPDES permit that EPA Region 8 issued to Climax in 1974." The State of Colorado has issued the permits since then.

#### **Deliberative Process / Ex. 5**

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Deliberative Process / Ex. 5

*For informational purposes. No action by the Regional Administrator is necessary.*

**Contact: Karen Hamilton at 312-6236, Toney Ott at 312-6909 or Erin Perkins at 312-6922**

## **OFFICE OF ENFORCEMENT, COMPLIANCE & ENVIRONMENTAL JUSTICE**

### **Previous Weeks –**

**NPDES ENFORCEMENT FILES AN ADMINISTRATIVE ORDER ON CONSENT WITH ARNEGARD HOLDINGS, LLC, ARNEGARD WW HOLDINGS, LLC AND THE CITY OF ARNEGARD FOR SEWAGE SLUDGE DISPOSAL VIOLATIONS IN ARNEGARD, NORTH DAKOTA:** On August 22, 2014, EPA's Region 8 filed an Administrative Order on Consent (Consent Order) with Arnegard Holdings, LLC, Arnegard WW Holdings, LLC, and the City of Arnegard under section 309 of the Clean Water Act for illegally disposing of sewage sludge in Arnegard, North Dakota. This Consent Order was based on responses to Clean Water Act information requests by several parties indicating that Arnegard Holdings, LLC, Arnegard WW Holdings, LLC, and the City of Arnegard were not complying with the EPA's sewage sludge disposal regulations. The Consent Order requires that Arnegard Holdings, LLC, Arnegard WW Holdings, LLC, and the City of Arnegard remove the sewage sludge from a pit located at 2588 134 Street in Arnegard, North Dakota and that they land apply the sewage sludge in accordance with the sewage sludge regulations. Arnegard Holdings LLC, Arnegard WW Holdings LLC, and the City of Arnegard are required to submit a report to the EPA within 60 days of land applying the sewage sludge detailing the method and manner of land application of sewage sludge in accordance with the regulations. Region 8 will consider closing the Consent Order in May of 2015, when all the work under the Consent Order is expected to be completed. NPDES Enforcement has coordinated closely with the North Dakota Department of Health on this matter.

**Contact(s): Emilio Llamozas (technical), 312-6407; Peggy Livingston (legal), 312-6858; Gwen Campbell (supervisory), 312-6463**

### **This Week –**

**THE EPA ISSUES COMPLIANCE ASSISTANCE PLAN TO OGLALA SIOUX TRIBE TO ADDRESS OUTSTANDING ISSUES AT REDSHIRT LANDFILL:** On August 25, 2014, the EPA issued a compliance assistance plan (CAP) to the Oglala Sioux Tribe (OST) Solid Waste Department (SWD) to address outstanding issues at the Redshirt Landfill (Landfill) at the Pine Ridge reservation in South Dakota.

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5**

**Contact(s): Amelia Piggott (legal), 312-6410; Susanna Trujillo (technical), 312-7003**

**EAGLE MINE SUPERFUND SITE, MINTURN, COLORADO - COMMUNICATIONS WITH MR. JEFF TUCKER:** Mr. Jeff Tucker continues to regularly contact regional staff with regard to the Eagle Mine Superfund Site (Site). Mr. Tucker objects to EPA's interactions and discussions with Battle North, LLC (Battle North), the owner of record for portions of property within the site boundaries.

Mr. Tucker is currently involved in long standing litigation with Battle North over property ownership. He is seeking EPA recognition of his asserted ownership interest. The EPA has provided several written responses to Mr. Tucker declining to get involved in the ownership dispute. In addition, regional staff have had multiple phone conversations and have responded to multiple FOIA requests submitted by Mr. Tucker. He is now seeking to meet with the EPA to discuss his contentions regarding ownership of the site property.

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5** *For informational purposes. No action by the Regional Administrator is necessary.*

**Contact(s): Jennifer Chergo (community involvement), 312-6601; Les Sims (technical), 312-6224; Laurianne Jackson (legal), 312-6950**

**UIC ENFORCEMENT IS PROPOSING COMPLIANCE ORDERS AGAINST CANON MARINE AND CUSTER COUNTY ROAD & BRIDGE:** Canon Marine located in Freemont County, Colorado and Custer County Road & Bridge Shop located in Custer County, Colorado operate Motor Vehicle Waste Disposal Wells (MVWDW) at their facilities. The EPA banned MVWDW as of January 1, 2007. The EPA inspected the facilities in May 2013, and found floor drains that led to septic tanks in the respective workshop areas at the facilities in violation of the ban. These proposed compliance orders require the facilities to comply with the ban within 60 days of receipt of the orders by permanently closing the floor drains utilizing the EPA's approved closure procedures. The orders also require the facilities to provide documentation of the closure of the wells within 30 days of the closure. No penalty will be assessed as long as the facilities comply with closure requirements. Custer County Road & Bridge Shop is a vehicle maintenance shop within the Road and Bridge Department of Custer County Government. Canon Marine is a recreational boat sales and maintenance company.

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5** *Information Only, No action required by the Regional Administrator.*

**Contact(s): Christopher Ajayi (technical), 312-6320; Eduardo Quintana (legal), 312-6924**

**EPA IS ISSUING AN INSPECTION NOTIFICATION LETTER TO** **Enforcement/Investigatory / Ex. 7(a)**

**Enforcement/Investigatory / Ex. 7(a)**

visited during this trip. *Information only, no action requested from Regional Administrator.*

**Contact(s): Mario Mérida (technical), 312-6297; Amy Swanson (legal), 312-6906.**

Next 30 Days—

**NPDES ENFORCEMENT PLANS TO CONDUCT ROUTINE INSPECTIONS** (Enforcement/Investigatory/ Ex. 7(a))

## **Enforcement/Investigatory / Ex. 7(a)**

**Contact(s):** Natasha Davis (technical), 312-6225; Gwen Campbell (supervisory), 312-6463

### **OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE**

Next 60 Days –

**WINTERTIME OZONE AND PARTICULATE MATTER HEALTH EFFECTS MEETING IN FT. DUCHESNE, UTAH:** The Tri-County Health Department, Ute Indian Tribe, Utah Department of Air Quality and EPA Region 8 are planning a meeting of health and risk communication experts on October 22, 2014, in Ft. Duchesne, Utah. The purpose of the meeting is to have invited health experts discuss their ongoing research efforts and available health data, so that potential health risks from ozone and fine particulate matter in the Uinta Basin could be better assessed. Risk communication experts will also be invited to discuss how this information could be best communicated to the impacted public, and what could be done to support community actions to reduce public exposure to ozone and fine particulate matter and reduce their emissions. The Ute Tribal Business Committee will also be invited. The agenda is under development. *Information only; no action required by RA/DRA.*

**Contacts:** Carl Daly, 312-6416; Jody Ostendorf, 312-7814

### **MONTANA OPERATIONS OFFICE**

**\*No items to report.**